

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

G. THOMAS NEBEL v. BOARD OF PROFESSIONAL RESPONSIBILITY

Direct Appeal from the Chancery Court for Davidson County
No. 08-2713-II Charles K. Smith, Special Judge

No. M2010-00420-SC-R3-BP - Filed January 21, 2011

ORDER

The Board of Professional Responsibility filed a petition for discipline against G. Thomas Nebel. The hearing panel found that Mr. Nebel should be disbarred, disgorge unearned fees, and pay restitution to clients. In addition, the hearing panel set forth requirements for Mr. Nebel to be eligible for reinstatement of his license. Mr. Nebel applied to the chancery court in Davidson County for judicial review of the hearing panel decision. The chancery court entered an order on January 6, 2010, affirming Mr. Nebel's disbarment but reversing the hearing panel's order of restitution of amounts to clients where no disciplinary complaint had been made.

Mr. Nebel has appealed to this Court from the order of the chancery court, contending that he should have been suspended rather than disbarred.

Tennessee Supreme Court Rule 9, section 1.3 provides that parties dissatisfied with the decision of a hearing panel may obtain judicial review by filing a petition for a writ of certiorari in accordance with Tennessee Code Annotated sections 27-9-101 through -114 (2000 & Supp. 2010). Tennessee Code Annotated section 27-8-106 (2000) requires that a petition for a writ of certiorari be "sworn to" and state that "it is the first application for the writ." We recently held that the failure to satisfy these requirements deprives trial courts of jurisdiction to review a hearing panel's decision. Bd. of Prof'l Responsibility v. Cawood, ___ S.W.3d ___, No. E2009-019-SC-R3-BP, 2010 WL 5141785, at *2 (Tenn. Dec. 20, 2010).

The petition for writ of certiorari filed by Mr. Nebel on December 15, 2009, failed to satisfy the requirements of Tennessee Code Annotated section 27-8-106. Mr. Nebel's appeal therefore was not properly perfected, and the trial court lacked jurisdiction to hear his appeal. Because the trial court lacked jurisdiction, its January 6, 2010 order must be vacated, and Mr.

Nebel's appeal must be dismissed for failure to file a proper petition within sixty days from the entry of the hearing panel's order as required by Tennessee Supreme Court Rule 9, section 8.3.

It is ordered that the chancery court's January 6, 2010 order is vacated and that Mr. Nebel's appeal to this Court is dismissed. Because the sanction imposed by the hearing panel exceeds a three-month suspension and because no appeal was properly perfected, the Board is directed to file a copy of the hearing panel's order for review by this Court in accordance with Tennessee Supreme Court Rule 9, section 8.4.

The costs of this appeal are taxed to the appellant, G. Thomas Nebel and his surety, for which execution may issue if necessary.

PER CURIAM